

CLERK US DISTRICT COURT  
NORTHERN DIST. OF TX  
FBI

**N**

© 2006 by The McGraw-Hill Companies, Inc.

A  
B  
C  
D  
E  
F  
G  
H  
I  
J  
K  
L  
M  
N  
O  
P  
Q  
R  
S  
T  
U  
V  
W  
X  
Y  
Z

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28  
29  
30  
31  
32  
33  
34  
35  
36  
37  
38  
39  
40  
41  
42  
43  
44  
45  
46  
47  
48  
49  
50  
51  
52  
53  
54  
55  
56  
57  
58  
59  
60  
61  
62  
63  
64  
65  
66  
67  
68  
69  
70  
71  
72  
73  
74  
75  
76  
77  
78  
79  
80  
81  
82  
83  
84  
85  
86  
87  
88  
89  
90  
91  
92  
93  
94  
95  
96  
97  
98  
99  
100  
101  
102  
103  
104  
105  
106  
107  
108  
109  
110  
111  
112  
113  
114  
115  
116  
117  
118  
119  
120  
121  
122  
123  
124  
125  
126  
127  
128  
129  
130  
131  
132  
133  
134  
135  
136  
137  
138  
139  
140  
141  
142  
143  
144  
145  
146  
147  
148  
149  
150  
151  
152  
153  
154  
155  
156  
157  
158  
159  
160  
161  
162  
163  
164  
165  
166  
167  
168  
169  
170  
171  
172  
173  
174  
175  
176  
177  
178  
179  
180  
181  
182  
183  
184  
185  
186  
187  
188  
189  
190  
191  
192  
193  
194  
195  
196  
197  
198  
199  
200  
201  
202  
203  
204  
205  
206  
207  
208  
209  
210  
211  
212  
213  
214  
215  
216  
217  
218  
219  
220  
221  
222  
223  
224  
225  
226  
227  
228  
229  
230  
231  
232  
233  
234  
235  
236  
237  
238  
239  
240  
241  
242  
243  
244  
245  
246  
247  
248  
249  
250  
251  
252  
253  
254  
255  
256  
257  
258  
259  
260  
261  
262  
263  
264  
265  
266  
267  
268  
269  
270  
271  
272  
273  
274  
275  
276  
277  
278  
279  
280  
281  
282  
283  
284  
285  
286  
287  
288  
289  
290  
291  
292  
293  
294  
295  
296  
297  
298  
299  
300  
301  
302  
303  
304  
305  
306  
307  
308  
309  
310  
311  
312  
313  
314  
315  
316  
317  
318  
319  
320  
321  
322  
323  
324  
325  
326  
327  
328  
329  
330  
331  
332  
333  
334  
335  
336  
337  
338  
339  
340  
341  
342  
343  
344  
345  
346  
347  
348  
349  
350  
351  
352  
353  
354  
355  
356  
357  
358  
359  
360  
361  
362  
363  
364  
365  
366  
367  
368  
369  
370  
371  
372  
373  
374  
375  
376  
377  
378  
379  
380  
381  
382  
383  
384  
385  
386  
387  
388  
389  
390  
391  
392  
393  
394  
395  
396  
397  
398  
399  
400  
401  
402  
403  
404  
405  
406  
407  
408  
409  
410  
411  
412  
413  
414  
415  
416  
417  
418  
419  
420  
421  
422  
423  
424  
425  
426  
427  
428  
429  
430  
431  
432  
433  
434  
435  
436  
437  
438  
439  
440  
441  
442  
443  
444  
445  
446  
447  
448  
449  
450  
451  
452  
453  
454  
455  
456  
457  
458  
459  
460  
461  
462  
463  
464  
465  
466  
467  
468  
469  
470  
471  
472  
473  
474  
475  
476  
477  
478  
479  
480  
481  
482  
483  
484  
485  
486  
487  
488  
489  
490  
491  
492  
493  
494  
495  
496  
497  
498  
499  
500  
501  
502  
503  
504  
505  
506  
507  
508  
509  
510  
511  
512  
513  
514  
515  
516  
517  
518  
519  
520  
521  
522  
523  
524  
525  
526  
527  
528  
529  
530  
531  
532  
533  
534  
535  
536  
537  
538  
539  
540  
541  
542  
543  
544  
545  
546  
547  
548  
549  
550  
551  
552  
553  
554  
555  
556  
557  
558  
559  
560  
561  
562  
563  
564  
565  
566  
567  
568  
569  
570  
571  
572  
573  
574  
575  
576  
577  
578  
579  
580  
581  
582  
583  
584  
585  
586  
587  
588  
589  
590  
591  
592  
593  
594  
595  
596  
597  
598  
599  
600  
601  
602  
603  
604  
605  
606  
607  
608  
609  
610  
611  
612  
613  
614  
615  
616  
617  
618  
619  
620  
621  
622  
623  
624  
625  
626  
627  
628  
629  
630  
631  
632  
633  
634  
635  
636  
637  
638  
639  
640  
641  
642  
643  
644  
645  
646  
647  
648  
649  
650  
651  
652  
653  
654  
655  
656  
657  
658  
659  
660  
661  
662  
663  
664  
665  
666  
667  
668  
669  
670  
671  
672  
673  
674  
675  
676  
677  
678  
679  
680  
681  
682  
683  
684  
685  
686  
687  
688  
689  
690  
691  
692  
693  
694  
695  
696  
697  
698  
699  
700  
701  
702  
703  
704  
705  
706  
707  
708  
709  
710  
711  
712  
713  
714  
715  
716  
717  
718  
719  
720  
721  
722  
723  
724  
725  
726  
727  
728  
729  
730  
731  
732  
733  
734  
735  
736  
737  
738  
739  
740  
741  
742  
743  
744  
745  
746  
747  
748  
749  
750  
751  
752  
753  
754  
755  
756  
757  
758  
759  
760  
761  
762  
763  
764  
765  
766  
767  
768  
769  
770  
771  
772  
773  
774  
775  
776  
777  
778  
779  
780  
781  
782  
783  
784  
785  
786  
787  
788  
789  
790  
791  
792  
793  
794  
795  
796  
797  
798  
799  
800  
801  
802  
803  
804  
805  
806  
807  
808  
809  
810  
811  
812  
813  
814  
815  
816  
817  
818  
819

ORIGINAL
































**9-10CV1599-P**

V.

Defendant.

2. Venue is proper in this District pursuant to 28 U.S.C. § 1391(b) and (c) because Defendant IBM maintains a call center in within this District, located in Dallas, Texas (the “Call Center”), as well as other offices within this District; IBM is doing business within this District; and the acts of complained of herein occurred in this District.

### **PARTIES**

3. Plaintiffs Tajuana Banks and Kimberly B. Maloney, are former IBM employees who had worked in IBM's Call Center. During the time Plaintiffs were employed by IBM, they were "employee(s)" as defined by 29 U.S.C. § 203(e).

4. Defendant IBM is a New York corporation that maintains offices throughout the United States, including the State of Texas. IBM maintains and operates a Call Center located in Dallas, Texas, as well as other offices within this District. At all times relevant hereto, IBM was an "employer" as defined by 29 U.S.C. § 203(d).

### **FACTUAL ALLEGATIONS**

5. IBM maintains various Call Centers to provide customer service throughout the United States. The Call Centers are staffed by IBM employees whose primary responsibilities are to provide telephonic customer support services to IBM's customers ("Call Center Employees").

6. IBM classifies Call Center Employees as non-exempt from overtime payments under federal law. However, despite the fact that Plaintiffs and all other similarly situated employees and former employees of IBM worked overtime hours, as defined under the FLSA and are, and/or have been, entitled to premium compensation at one and one-half times the regular hourly rate ("Overtime Compensation") for any hours worked in excess of forty (40) hours per week, IBM has willfully refused to pay Plaintiffs and others similarly situated the required overtime compensation for the overtime hours worked.

7. Instead, IBM's policy has been, and is, to pay Call Center Employees, including Plaintiffs, only for their scheduled hours, which is normally an eight hour shift. Plaintiffs, and other Call Center Employees, however, are required to arrive at work 10-15 minutes prior to the

start of their regular shift to perform tasks necessary for their positions, such as fully booting computers and ensuring that all relevant applications are loaded. In addition, Call Center Employees are required to complete all customer calls before they can leave work, even if their shift has ended, and are required to work during meal and rest breaks if necessary, to complete customer calls. As a consequence, Call Center Employees routinely work in excess of forty (40) hours per week without receiving Overtime Compensation.

8. IBM has intentionally, willfully and improperly failed to pay Overtime Compensation to Plaintiffs and all other similarly situated Call Center Employees for the overtime hours they worked, and has failed to keep time records as required by law.

9. Defendant IBM's practices violate the FLSA as plead herein. Plaintiffs seek injunctive and declaratory relief, overtime compensation for all overtime work required, suffered, or permitted by IBM, liquidated and/or other damages and penalties as permitted by applicable law, interest, and attorneys' fees and costs.

### **COLLECTIVE ACTION ALLEGATIONS**

10. Plaintiffs bring this Claim for Relief for violation of the FLSA as a collective action pursuant to Section 16(b) of the FLSA, 29 U.S.C. § 216(b), on behalf of all Nationwide FLSA Collective Plaintiffs.

11. Plaintiffs and Nationwide FLSA Collective Plaintiffs are similarly situated in that they have substantially similar job requirements and pay provisions, and are subject to IBM's common practice, policy, or plan of unlawfully refusing to pay them Overtime Compensation in violation of the FLSA.

12. This Claim for Relief for violations of the FLSA may be brought and maintained as an "opt-in" collective action pursuant to § 16(b) of FLSA, 29 U.S.C. § 216(b), since the

claims of the Plaintiffs are similar to the claims of the members of the Nationwide FLSA Collective Plaintiffs.

13. The names and addresses of the Nationwide FLSA Collective Plaintiffs are available from Defendant IBM, and notice should be provided to the Nationwide FLSA Collective Plaintiffs via first class mail to the last address known to their employer as soon as possible.

### **FIRST CLAIM FOR RELIEF**

**(Fair Labor Standards Act, 29 U.S.C. § 201 *et seq.*,  
Brought by Named Plaintiffs on Behalf of  
Themselves and the Nationwide FLSA Collective Plaintiffs)**

14. Plaintiffs, on behalf of themselves and the Nationwide FLSA Collective Plaintiffs, reallege and incorporate by reference the above paragraphs as if they were full set forth herein.

15. At all relevant times, IBM has been, and continues to be, an “employer” engaged in interstate “commerce” and/or in the production of “goods” for “commerce,” within the meaning of the FLSA, 29 U.S.C. § 203. At all relevant times, IBM has employed, and continues to employ, “employee[s],” including Plaintiffs, and each of the collective Nationwide FLSA Collective Plaintiffs. At all relevant times, IBM has had gross operating revenues in excess of \$500,000.

16. Attached hereto are consents to sue signed by the Named Plaintiffs in this action pursuant to § 16(b) of the FLSA, 29 U.S.C. §§ 216(b) and 256. It is likely that other individuals will sign consent forms and join as plaintiffs on this claim in the future.

17. The FLSA requires each covered employer, such as Defendant IBM, to compensate all non-exempt employees at a rate of not less than one and one-half times the regular rate of pay for work performed in excess of forty hours in a work week.

18. The Nationwide FLSA Collective Plaintiffs are entitled to be paid Overtime Compensation for all overtime hours worked.

19. At all relevant times, IBM, pursuant to its policies and practices, failed and refused to pay overtime premiums to the Nationwide FLSA Collective Plaintiffs for their hours worked in excess of forty hours per week.

20. By failing to compensate Plaintiffs and the Nationwide FLSA Collective Plaintiffs at a rate not less than one and one-half times the regular rate of pay for work performed in excess of forty hours in a workweek, IBM has violated, and continues to violate, the FLSA, 29 U.S.C. §§ 201, *et seq.*, including 29 U.S.C. § 207(a)(1) and § 215(a).

21. By failing to record, report, and/or preserve records of hours worked by Plaintiffs and the Nationwide FLSA Collective Plaintiffs, IBM has failed to make, keep, and preserve records with respect to each of its employees sufficient to determine their wages, hours, and other conditions and practice of employment, in violation of the FLSA, 29 U.S.C. §§ 201, *et seq.*, including 29 U.S.C. § 211(c) and § 215(a).

22. The foregoing conduct, as alleged, constitutes a willful violation of the FLSA within the meaning of 29 U.S.C. § 255(a).

23. Plaintiffs, on behalf of herself and Nationwide FLSA Collective Plaintiffs, seek recovery of their attorneys' fees and costs of action to be paid by IBM, as provided by the FLSA, 29 U.S.C. § 216(b).

24. Plaintiffs, on behalf of themselves and Nationwide FLSA Collective Plaintiffs, seek damages in the amount of their respective unpaid Overtime Compensation, liquidated damages as provided by the FLSA, 29 U.S.C. § 216(b), interest, and such other legal and equitable relief as the Court deems just and proper.

**PRAYER FOR RELIEF**

**WHEREFORE**, Plaintiffs, on behalf of themselves and all members of the Nationwide FLSA Collective Plaintiffs, pray for relief as follows:

A. Designation of this action as a collective action on behalf of the Plaintiffs and the Nationwide FLSA Collective Plaintiffs (asserting FLSA claims) and prompt issuance of notice pursuant to 29 U.S.C. § 216(b) to all similarly situated members of the FLSA Opt-In Class, apprising them of the pendency of this action, and permitting them to assert timely FLSA claims in this action by filing individual Consent to Sue forms pursuant to 29 U.S.C. § 216(b);

B. Certification of this action as a class action on behalf of the proposed Class;

C. Designation of Plaintiffs as Representatives of the Class;

D. A declaration that the practices complained of herein violate ERISA § 209(a), 29 U.S.C. § 1129(a);

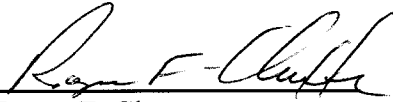
H. An order requiring that Defendant remedy its breaches of fiduciary duty by crediting Plaintiffs and the Class with Eligible Compensation and Pensionable Pay for all of their past, present, and future uncompensated work;

I. Attorneys' fees and costs of suit; and

J. Such other injunctive and equitable relief as the Court may deem necessary, just, and proper.

Dated: August 16, 2010

Respectfully submitted,

By:   
Roger F. Claxton  
State Bar No. 04329000  
10000 N Central Expressway, Suite 725  
Dallas, TX 75231  
Telephone: (214) 969-9029  
Facsimile: (214) 953-0583  
Email: [roger@claxtonlaw.com](mailto:roger@claxtonlaw.com)

**RIGRODSKY & LONG, P.A.**

Seth D. Rigrodsky  
Brian D. Long  
919 North Market Street, Suite 980  
Wilmington, DE 19801  
Telephone: (302) 295-5310  
Facsimile: (302) 654-7530  
Email: [sdr@rigrodskylong.com](mailto:sdr@rigrodskylong.com)  
Email: [bdl@rigrodskylong.com](mailto:bdl@rigrodskylong.com)

-and-

Timothy J. MacFall  
585 Stewart Avenue, Suite 304  
Garden City, NY 11530  
Telephone (516) 683-3516  
Email: [tjm@rigrodskylong.com](mailto:tjm@rigrodskylong.com)

***EGLESTON LAW FIRM***

Gregory M. Egleston  
360 Furman Street, Suite 443  
Brooklyn, NY 11201  
Telephone: (646) 227-1700  
Facsimile: (646) 227-1701  
Email: [egleston@gme-law.com](mailto:egleston@gme-law.com)  
Email: [greg.egleston@gmail.com](mailto:greg.egleston@gmail.com)

***Attorneys for Plaintiffs***

**CONSENT TO JOIN COLLECTIVE CLASS ACTION**

By signing below, I state that I have been employed by International Business Machine ("IBM"), or one of its subsidiaries or affiliates as a Call Center Employee, or other similarly titled position within the past three (3) years and that I worked more than forty (40) hours in at least one week and was not paid for all the time I worked, including all preliminary and postliminary work activities. I hereby consent to join this lawsuit for violations of the Fair Labor Standard Act, 29 U.S.C. § 201, *et seq.*

I hereby designate the Eggleston Law Firm, Rigrodsky & Long, P.A. and Law Office of Roger F. Claxton ("Plaintiffs' Counsel") and other attorneys with whom they may associate to represent me for all purposes of this action.

I also designate the Class Representative(s) as my agent(s) to make decisions on my behalf concerning the litigation, the method and manner of conducting this litigation, the entering of an agreement with Plaintiffs' counsel concerning attorneys' fees and costs, and all other matters pertaining to this lawsuit.

8/6/10  
Date

Tajuana Banks  
Signature

Tajuana Banks  
Print Name



**CONSENT TO JOIN COLLECTIVE CLASS ACTION**

By signing below, I state that I have been employed by International Business Machine ("IBM"), or one of its subsidiaries or affiliates as a Call Center Employee, or other similarly titled position within the past three (3) years and that I worked more than forty (40) hours in at least one week and was not paid for all the time I worked, including all preliminary and postliminary work activities. I hereby consent to join this lawsuit for violations of the Fair Labor Standard Act, 29 U.S.C. § 201, *et seq.*

I hereby designate the Egleston Law Firm, Rigrodsky & Long, P.A. and Law Office of Roger F. Claxton ("Plaintiffs' Counsel") and other attorneys with whom they may associate to represent me for all purposes of this action.

I also designate the Class Representative(s) as my agent(s) to make decisions on my behalf concerning the litigation, the method and manner of conducting this litigation, the entering of an agreement with Plaintiffs' counsel concerning attorneys' fees and costs, and all other matters pertaining to this lawsuit.

8.6.10  
Date

Kimberly B. Maloney  
Signature

Kimberly B. Maloney  
Print Name

JS 44 (TXND Rev. 2/10)

## CIVIL COVER SHEET

The JS 44 Civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON THE REVERSE OF THE FORM.)

## I. (a) PLAINTIFFS

Tajwana Banks and Kimberly B. Maloney

## DEFENDANTS

International Business Machines Corporation

(b) County of Residence of First Listed Plaintiff  
(EXCEPT IN U.S. PLAINTIFF CASES)

County of Residence of First Listed Defendant  
(IN U.S. PLAINTIFF CASES ONLY)

(c) Attorney's (Firm Name, Address, and Telephone Number)

Roger F. Claxton  
10000 N. Central Expressway, Suite 200, Dallas, TX 75231 / 214-969-9029

CLERK, U.S. DISTRICT COURT, SOUTHERN DISTRICT OF TEXAS

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE LAND INVOLVED.

3-10CV1599-P

## II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

- ☐ 1 U.S. Government Plaintiff  
☒ 3 Federal Question (U.S. Government Not a Party)  
☐ 2 U.S. Government Defendant  
☐ 4 Diversity (Indicate Citizenship of Parties in Item III)

## III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)

- (For Diversity Cases Only)
- |   |  |   |   |
|---|--|---|---|
| Citizen of This State                   | PTF <input checked="" type="checkbox"/> 1 DEF <input type="checkbox"/> 1 | Incorporated or Principal Place of Business In This State     | PTF <input type="checkbox"/> 4 DEF <input type="checkbox"/> 4 |
| Citizen of Another State                | <input type="checkbox"/> 2 <input type="checkbox"/> 2                    | Incorporated and Principal Place of Business In Another State | <input type="checkbox"/> 5 <input type="checkbox"/> 5         |
| Citizen or Subject of a Foreign Country | <input type="checkbox"/> 3 <input type="checkbox"/> 3                    | Foreign Nation  | <input type="checkbox"/> 6 <input type="checkbox"/> 6         |

## IV. NATURE OF SUIT (Place an "X" in One Box Only)

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excl. Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise	<b>PERSONAL INJURY</b> <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury <b>PERSONAL INJURY</b> <input type="checkbox"/> 362 Personal Injury - Med. Malpractice <input type="checkbox"/> 365 Personal Injury - Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability <b>PERSONAL PROPERTY</b> <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 610 Agriculture <input type="checkbox"/> 620 Other Food & Drug <input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 630 Liquor Laws <input type="checkbox"/> 640 R.R. & Truck <input type="checkbox"/> 650 Airline Regs. <input type="checkbox"/> 660 Occupational Safety/Health <input type="checkbox"/> 690 Other <b>LABOR</b> <input checked="" type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Mgmt. Relations <input type="checkbox"/> 730 Labor/Mgmt. Reporting & Disclosure Act <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Empl. Ret. Inc. Security Act <b>IMMIGRATION</b> <input type="checkbox"/> 462 Naturalization Application <input type="checkbox"/> 463 Habeas Corpus - Alien Detainee <input type="checkbox"/> 465 Other Immigration Actions	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 <b>PROPERTY RIGHTS</b> <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 840 Trademark <b>SOCIAL SECURITY</b> <input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g)) <b>FEDERAL TAX SUITS</b> <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS—Third Party 26 USC 7609	<input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 480 Consumer Credit <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 810 Selective Service <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 875 Customer Challenge 12 USC 3410 <input type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 892 Economic Stabilization Act <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 894 Energy Allocation Act <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 900 Appeal of Fee Determination Under Equal Access to Justice <input type="checkbox"/> 950 Constitutionality of State Statutes
<b>REAL PROPERTY</b> <input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	<b>CIVIL RIGHTS</b> <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 444 Welfare <input type="checkbox"/> 445 Amer. w/Disabilities - Employment <input type="checkbox"/> 446 Amer. w/Disabilities - Other <input type="checkbox"/> 440 Other Civil Rights	<b>PRISONER PETITIONS</b> <input type="checkbox"/> 510 Motions to Vacate Sentence <b>Habeas Corpus:</b> <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition		

## V. ORIGIN

(Place an "X" in One Box Only)

- ☒ 1 Original Proceeding  
☐ 2 Removed from State Court  
☐ 3 Remanded from Appellate Court  
☐ 4 Reinstated or Reopened  
☐ 5 Transferred from another district (specify)  
☐ 6 Multidistrict Litigation  
☐ 7 Appeal to District Judge from Magistrate Judgment

## VI. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):

FLSA 29 USC sec 216(b)

Brief description of cause:

## VII. REQUESTED IN COMPLAINT:

☒ CHECK IF THIS IS A CLASS ACTION UNDER F.R.C.P. 23

DEMAND \$

CHECK YES only if demanded in complaint:

JURY DEMAND: ☐ Yes ☒ No

## VIII. RELATED CASE(S) (See instructions) PENDING OR CLOSED:

JUDGE

DOCKET NUMBER

DATE

8-17-10

SIGNATURE OF ATTORNEY OF RECORD

Roger Claxton

FOR OFFICE USE ONLY

RECEIPT # \_\_\_\_\_ AMOUNT \_\_\_\_\_ APPLYING IFP \_\_\_\_\_ JUDGE \_\_\_\_\_ MAG. JUDGE \_\_\_\_\_